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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/664,118	09/18/2000	Todd L. Lydic	2709-990015	9049
36787	7590	11/08/2005	EXAMINER LE, MARK T	
BLYNN L. SHIDELER THE BLK LAW GROUP 3500 BROOKTREE ROAD SUITE 200 WEXFORD, PA 15090			ART UNIT 3617	PAPER NUMBER
DATE MAILED: 11/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/664,118	LYDIC ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark T. Le	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10/7/05.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

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### DETAILED ACTION

1. This communication is responsive to the amendments filed on October 7, 2005. Applicant's remarks have been carefully considered.
2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss (US 6,367,958) in view of Chapter 19 documentation.

Weiss discloses a gondola rail car with center sill 16 similar to that recited in the instant claims; however, Weiss is silent as to whether the center sill is cold formed. It is noted that metal shaping by cold forming is well known (note for example Chapter 19 documentation), and it would have been obvious to one skilled in the art to process the center sill of Weiss by a well known method of cold forming so as to achieve the expected advantages thereof, i.e. improved mechanical properties, better machinability, enhance size accuracy, brighter surface, and the ability to produce the structure at a thinner gage.

Regarding the instant claimed material thickness of the sill as recited in instant claims 4 and 11, or the instant claimed weight of the sill, as recited in instant claims 5 and 12, noted that the strength of a beam or sill is generally proportional to the material thickness and the weight of the structure, e.g. given two beams of similar structures but only different in the material thickness and weight, the beam with thicker material and greater weight is inherently stronger than the other beam. Accordingly, as a matter of design choice it would have been obvious to one skilled in the art to form the sill of Weiss from a known material, such as a common construction steel sheet, with a selected material thickness and weight, including a thickness between 3/8 inch and 5/8

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inch and a weight of less than 80lbs/ft, so as to achieve the corresponding strength of the sill for providing an expected corresponding load carrying capacity of the railcar.

Applicant should further note that in the case of the center sill of Weiss that is made by cold forming, as described above, the resulted sill structure would have an increased strength and hardness; therefore, the sill may be made at a thinner gauge and lighter weight while still maintains the same strength as if it were made otherwise by a different method.

Regarding the center sill being formed without weld seams, as recited in instant claims 6, 8 and 15, note that Weiss does not show nor describe his center sill as having weld seams; therefore, it would not be proper to insist otherwise.

Regarding the instant claimed center sill having four work hardened corners, as recited in instant claims 13 and 19, note that the center sill of Weiss has four corners as claimed. As to the corners being hardened, note that the hardness of the corners of the center sill of Weiss is inherently affected to some degrees through the cold work process of shaping such corners.

Regarding the instant claimed bottom wall portions extending inwardly from one side edge, as recited in instant claim 14, consider Figure 3 of Weiss; wherein, each the bottom flanges of Weiss is readable as being extending inwardly from one side edge of the sill or from one side edge of the bottom portion of a side wall of the sill.

3. Responses to Applicant's Arguments:

Regarding Applicant's arguments and interpretations of Weiss, e.g. as to how the structure of Weiss is formed by welding two pieces of center sill shrouds or by welding a

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plurality of hot rolled flat pieces together, note that Weiss does not provide any basis for supporting such arguments and interpretations made by Applicant. Note MPEP 2125, wherein, "When the reference is a utility patent, it does not matter that the feature shown is unintended or unexplained in the specification. The drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art. In re Aslanian, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)." In the instant case, the drawing of Weiss, i.e. Figure 3, clearly shows and suggests center sill 16, which is similar to that recited in the instant claims, being in the form a single element that is not formed by welding a plurality of hot rolled flat pieces of material as argued by Applicant. On the other hand, Weiss reference does not describe that center sill 16 can only be made by hot-rolling.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri (2:00-8:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le  
Primary Examiner  
Art Unit 3617

mle  
11/2/05